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Attorneys for Defendants,
CHINA CHEF RESTAURANT, JOHN TANG,
HELEN TANG (erroneously sued
as HELEN PANT), and ZHANG SIMING

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDI MILLARD,)	Case No. C07-04602 JCS
)	
Plaintiff,)	ANSWER TO COMPLAINT ON BEHALF
)	OF CHINA CHEF RESTAURANT, JOHN
vs.)	TANG, HELEN TANG, AND ZHANG
)	SIMING
CHINA CHEF RESTAURANT, ANNA)	
TIEN, HELEN PANT, JOHN TANG,)	
ZHANG SIMING, dba CHINA CHEF)	
RESTAURANT; EUGENE J. AND)	
BARBARA CASARETTO TRUST;)	
EUGENE CASARETTO and BARBARA)	
CASARETTO, TRUSTEES of the)	
EUGENE J. AND BARBARA)	
CASARETTO TRUST; and DOES 1 -)	
10, Inclusive,)	
)	
_____Defendants.)	
_____)	

Defendants, CHINA CHEF RESTAURANT, JOHN TANG, HELEN TANG
(erroneously sued as HELEN PANT), and ZHANG SIMING, answer the
allegations of the Complaint of ANDI MILLARD as follows:

1. With respect to the first paragraph of the Complaint,
defendants have no information or belief on the subject to enable

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them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

2. With respect to paragraph number 1 of the Complaint, defendants admit that China Chef Restaurant is located at 676 El Camino Real, San Carlos, California. With respect to the physical condition of plaintiff, defendants have no information or belief on the subject to enable them to answer said allegations, and basing their denial thereon, deny said allegations. With respect remainder of the allegations contained in said paragraph, defendants deny said allegations.

3. With respect to paragraph number 2 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

4. With respect to paragraph number 3 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

5. With respect to paragraph number 4 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained

therein.

6. With respect to paragraph number 5 of the Complaint, defendants admit that some of the defendants lease the location at 676 El Camino Real, San Carlos, California. With respect to the remainder of the allegations contained in said paragraph, defendants have no information or belief on the subject to enable them to answer said allegations, and basing their denial thereon, deny said allegations.

7. With respect to paragraph number 6 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

8. With respect to paragraph number 7 of the Complaint, defendants admit that some of the defendants lease the location at 676 El Camino Real, San Carlos, California. With respect to the remainder of the allegations contained in said paragraph, defendants have no information or belief on the subject to enable them to answer said allegations, and basing their denial thereon, deny said allegations.

9. With respect to paragraph number 8 of the Complaint, defendants admit that some of the defendants lease the location at 676 El Camino Real, San Carlos, California and that the restaurant is open to the public. With respect to the remainder of the allegations contained in said paragraph, defendants have

no information or belief on the subject to enable them to answer said allegations, and basing their denial thereon, deny said allegations.

First Cause Of Action

10. With regard to paragraph number 9 of the Complaint, defendants repeat and reallege their answers to paragraphs 1 through 8, and incorporate said answers herein, by this reference.

11. With respect to paragraph number 10 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

12. With respect to paragraph 11 of the Complaint, defendants deny that there was any construction or alteration as alleged by plaintiff. With respect to the remainder of the allegations contained in said paragraph, defendants have no information or belief on the subject to enable them to answer said allegations, and basing their denial thereon, deny said allegations.

13. With respect to paragraph number 12 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

14. With respect to paragraph number 13 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

15. With respect to paragraph number 14 of the Complaint, defendants deny the allegations contained in said paragraph.

16. With respect to paragraph number 15 of the Complaint, defendants deny the allegations contained in said paragraph.

17. With respect to paragraph number 16 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

18. With respect to paragraph number 17 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

19. With respect to paragraph number 18 of the Complaint, defendants deny the allegations contained in said paragraph.

20. With respect to paragraph number 19 of the Complaint, defendants deny the allegations contained in said paragraph.

21. With respect to paragraph number 20 of the Complaint, defendants deny the allegations contained in said paragraph.

22. With respect to paragraph number 21 of the Complaint, defendants deny the allegations contained in said paragraph.

23. With respect to paragraph number 22 of the Complaint, there is nothing to admit or deny because this appears to be a quotation of statutory law.

24. With respect to paragraph number 23 of the Complaint, defendants deny the allegations contained in said paragraph.

25. With respect to paragraph number 24 of the Complaint, defendants deny the allegations contained in said paragraph.

26. With respect to paragraph number 25 of the Complaint, defendants deny the allegations contained in said paragraph.

Second Cause Of Action

27. With regard to paragraph number 26 of the Complaint, defendants repeat and reallege their answers to paragraphs 1 through 25, and incorporate said answers herein, by this reference.

28. With respect to paragraph number 27 of the Complaint, there is nothing to admit or deny because this appears to be a quotation of statutory law.

29. With respect to paragraph number 28 of the Complaint, defendants deny the allegations contained in said paragraph.

Third Cause Of Action

30. With regard to paragraph number 29 of the Complaint, defendants repeat and reallege their answers to paragraphs 1 through 28, and incorporate said answers herein, by this

reference.

31. With respect to paragraph number 30 of the Complaint, defendants have no information or belief on the subject to enable them to answer the allegations contained in said paragraph, and basing their denial thereon, deny the allegations contained therein.

32. With respect to paragraph number 31 of the Complaint, there is nothing to admit or deny because this appears to be a quotation of statutory law.

33. With respect to paragraph number 32 of the Complaint, defendants admit that their location is a "private entity", but deny the remainder of the allegations contained in said paragraph.

34. With respect to paragraph number 33 of the Complaint, there is nothing to admit or deny because this appears to be a quotation of statutory law.

35. With respect to paragraph number 34 of the Complaint, there is nothing to admit or deny because this appears to be a quotation of statutory law.

36. With respect to paragraph number 35 of the Complaint, defendants deny that plaintiff's rights were violated under the ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 CFR Part 36ff. With respect to the remainder of said paragraph, there is nothing to admit or deny because it appears to be a quotation of statutory law.

37. With respect to paragraph number 36 of the Complaint, defendants deny the allegations contained in said paragraph.

38. With respect to paragraph number 37 of the Complaint, defendants deny the allegations contained in said paragraph.

39. With respect to paragraph number 38 of the Complaint, defendants deny the allegations contained in said paragraph.

40. With respect to paragraph number 39 of the Complaint, defendants deny the allegations contained in said paragraph.

41. With respect to paragraph number 40 of the Complaint, defendants deny the allegations contained in said paragraph.

Prayer For Relief

42. Defendants deny the allegations contained in paragraph number 1.

43. Defendants deny the allegations contained in paragraph number 2.

44. Defendants deny the allegations contained in paragraph number 3.

45. Defendants deny the allegations contained in paragraph number 4.

46. Defendants deny the allegations contained in paragraph number 5.

47. Defendants deny the allegations contained in paragraph number 6.

Defendants reallege the forgoing answers to the allegations contained in plaintiff's Complaint and incorporate these answers

herein by this reference with the same force and effect in asserting the following affirmative defenses which bar plaintiff's recovery:

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint, and any and all causes of action, contentions and/or allegations contained therein, have failed to set forth facts and allegations sufficient to constitute a cause of action against these answering defendants.

SECOND AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that this action is barred by the appropriate statutes of limitations.

THIRD AFFIRMATIVE DEFENSE

_____These answering defendants are informed and believe and thereon allege that the damages or harm, if any, sustained herein was the result of the negligence, strict liability, fault and/or responsibility of persons, corporations, partnerships or entities other than these answering defendants, and the acts, omissions or liability of such were the sole proximate cause of the alleged damages or harm, if any, claimed in this action.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate her damages, if any, and accordingly, is not entitled to the relief sought in the Complaint.

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FIFTH AFFIRMATIVE DEFENSE

____Any equitable relief sought herein is barred because plaintiff has an adequate remedy at law.

SIXTH AFFIRMATIVE DEFENSE

The plaintiff has by her own acts, conduct and omissions, waived whatever rights it might have been based on the allegations of the Complaint against these answering defendants.

SEVENTH AFFIRMATIVE DEFENSE

The Complaint, and each cause of action thereof, is barred by the equitable doctrine of laches.

EIGHTH AFFIRMATIVE DEFENSE

The Complaint, and each cause of action thereof, is barred by the equitable doctrine of estoppel.

NINTH AFFIRMATIVE DEFENSE

The Complaint, and each cause of action thereof, is barred by the equitable doctrine of bad faith.

TENTH AFFIRMATIVE DEFENSE

The Complaint, and each cause of action thereof, is barred by plaintiff's unclean hands.

ELEVENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that there has been a misjoinder or nonjoinder of necessary parties in this action.

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TWELFTH AFFIRMATIVE DEFENSE

____Defendants are informed and believe and thereon allege that plaintiff lacks standing.

THIRTEENTH AFFIRMATIVE DEFENSE

____Defendants are informed and believe and thereon allege that there has been no triggering event per Section 303 of the ADA or similar statutes.

FOURTEENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that there has been no violation of the Unruh Civil Rights Act and similar federal statutes.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that there has been no violation of the Unruh Civil Rights Act in that the lack of admittance of plaintiff into their business establishment is not discriminatory, but is caused by the structure of the building and by the fact that admittance of plaintiff would require construction, alteration, repair, or modification of the building in which defendants' business establishment is located that is not required by other provisions of law.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that the modifications prayed for in the Complaint would fundamentally alter the nature of the goods, services, facilities, privileges,

advantages, and/or accommodations.

SEVENTEENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that the removal of the alleged barriers is not readily achievable or that alternative methods are not readily achievable.

EIGHTEENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that meeting the ready accessibility requirements is structurally impracticable.

NINETEENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that the cost of alterations to provide an accessible path of travel to an altered area is disproportionate to the overall alteration; under the Department of Justice barrier removal regulations, the obligation to remove barriers cannot exceed what is required for alterations.

TWENTIETH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that the use of auxiliary aids and services would result in fundamental alteration or an undue burden.

TWENTY-FIRST AFFIRMATIVE DEFENSE

During the course of discovery in this action, other affirmative defenses may become known or substantiated. Defendants reserve the right to add said affirmative defenses within a reasonable time after the fact underlying said

affirmative defenses become known to these answering defendants.

WHEREFORE, these answering defendants pray that plaintiff take nothing by way of her Complaint, that judgment be entered in favor of these answering defendants, and against plaintiff herein, for attorney's fees, costs of suit, and for such other and further relief as the Court deems just and proper.

Dated: November 7, 2007

FRIEDLAND, RIVAS & ASSOCIATES

/s/

MANUEL RIVAS, JR., Attorney
for Defendants, CHINA CHEF
RESTAURANT, JOHN TANG,
HELEN TANG (erroneously sued
as HELEN PANT), and ZHANG SIMING

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